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Auto Warehousing Company, Inc.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

AUTO WAREHOUSING COMPANY, INC.,

Plaintiff,

v.

ELLE PLACEMENT, INC. d/b/a GOLDEN
GATE STAFFING, LORI SCHAEFFER, an
Individual and in her capacity as Owner,
Director, Chief Executive Officer, and Chief
Financial Officer of ELLE PLACEMENT,
INC., and DOES 1-100,

Defendants.

Case No.: 2:22-cv-00946-TLN-CKD
[Clerk's Action Required]

**JOINT NOTICE OF TRIAL
READINESS AND MOTION FOR
MODIFICATION OF PRETRIAL
DEADLINES**

NOTING DATE: APRIL 27, 2023

WITHOUT ORAL ARGUMENT

I. RELIEF REQUESTED

COME NOW Plaintiff Auto Warehousing Company, Inc. ("Plaintiff" and/or "AWC") and Defendants Elle Placement, Inc. d/b/a Golden Gate Staffing ("Elle") and Lori Schaeffer ("Ms. Schaffer") (collectively "Defendants"), and submit this Joint Notice of Trial Readiness pursuant to the Court's Initial Pretrial Scheduling Order (ECF No. 31). Plaintiff and Defendants (the "Parties") further stipulate to a Motion for Modification of Pretrial Deadlines pursuant to Federal Rule of Civil Procedure ("Fed. R. Civ. P.") 16(b). AWC has recently amended its complaint, to which Defendants

JOINT NOTICE OF TRIAL READINESS AND MOTION FOR MODIFICATION OF
PRETRIAL DEADLINES

answered. The Parties are preparing to exchange updated disclosures and have cooperated to continue to move this matter forward. The Parties, however, are not currently prepared for trial in significant part due to the filing of a related case, *Philadelphia Indem. Ins. Co. v. Elle Placement, Inc. et al.*, Case No. 2:22-cv-01986-TLN-CKD (E.D. Cal. 2022) (the “Related Case”) on or about November 2, 2022 (ECF No. 43). Accordingly, the Parties have also been cooperating with Philadelphia Indemnity Insurance Company in seeking resolution of the two lawsuits, including setting mediation for July 12, 2023. Thus, the Parties request the following modification:

<u>Deadline</u>	<u>New Deadline Requested by Parties</u>
Discovery	November 10, 2023
Initial Expert Disclosures	September 29, 2023
Supplemental Expert Disclosures	October 27, 2023
Dispositive Motions	January 12, 2024

II. PROCEDURAL HISTORY

Plaintiff filed this lawsuit in the Superior Court for Pierce County, Washington on or about November 24, 2021. *See* ECF No. 1-1. On February 1, 2022, Defendants filed a Notice of Removal, and removed this matter to the U.S. District Court for the Western District of Washington (“Western District”). ECF No. 1. In accordance with the Western District’s Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement (ECF No. 9), the Parties exchanged Initial Disclosures on March 17, 2022 and filed a Joint Status Report on March 31, 2022. ECF No. 21. Prior to the Parties filing the Joint Status Report but after the Parties exchanged Initial Disclosures, Defendants moved to dismiss this action for lack of personal jurisdiction. ECF No. 16. On May 20, 2022, the Parties filed a Stipulated Motion to Transfer Case to the U.S. District Court for the Eastern District of California. ECF No. 28. The Western District granted the Parties’ Stipulated Motion to Transfer Case, and this lawsuit has since been before this Court. *See* ECF Nos. 29 and 30.

Since transfer of this case, both Parties have retained new counsel. *See* ECF Nos. 33, 34, 37, 38, 42, and 44. The Parties’ new counsels have met and conferred on numerous occasions to discuss

the status of this case, and in doing so, the Parties agreed that Plaintiff would need to file an Amended Complaint. *See* ECF No. 47. Accordingly, the Parties filed a Stipulation and Proposed Order for Plaintiff to file an Amended Complaint. *Id.* Pursuant to the Court’s approval, Plaintiff filed an Amended Complaint on March 9, 2023. ECF No. 50. Defendants filed an Answer to Plaintiff’s Amended Complaint on April 10, 2023. ECF No. 51. Moreover, the Parties have scheduled a mediation with Philadelphia Indemnity Insurance Company for July 12, 2023. The questions presented in the Related Case are not only critical to the Parties’ trial preparations for this lawsuit but also may render certain issues in this lawsuit moot. Therefore, the Parties have been diligently conducting discovery and preparing for the July 12, 2023 mediation.

III. AUTHORITY

District courts have “broad discretion in supervising the pretrial phase of litigation,” including modifying any pretrial scheduling orders. *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). Upon the showing of good cause, the district court may “modify its pretrial order.” *Amazing Ins. v. Dimanno*, Case No. 2:19-cv-01349-TLN-CKD, 2021 U.S. Dist. LEXIS 235453, at *3 (E.D. Cal. 2021) (citing *Amerisourcebergen Corp. v. Dialysist West, Inc.*, 445 F.3d 1132, 1135 n.1 (9th Cir. 2006)). Where parties demonstrate due diligence in complying with a district court’s scheduling order and where no parties contest the modification of a pretrial scheduling order, then good cause can be found. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992).

Here, the Parties have worked diligently since the initial filing of this lawsuit on or about November 24, 2021. The lawsuit, however, has had a number of events affecting its procedural history, including the filing of the Related Case, which is also before this Court. Certain questions presented in the Related Case may be dispositive of issues in this lawsuit, and modification of the Initial Pretrial Scheduling Order (ECF No. 31) would promote judicial economy and allow the Parties to avoid incurring time, fees, and costs on moot issues. Modification of the Initial Pretrial Scheduling Order (ECF No. 31) would also allow the Parties to reserve the right to file dispositive motions.

IV. CONCLUSION

This Notice of Trial Readiness and Motion for Modification of Pretrial Deadlines is the

1 Parties' first request for any such modification. As the Parties have shown good cause, the Parties
2 respectfully request a modification of the Initial Pretrial Scheduling Order (ECF No. 31) pursuant to
3 Fed. R. Civ. P. 16(b) and in the exercise of the Court's broad discretion in managing and supervising
4 the pretrial phase of litigation.

5 Dated: April 27, 2023

7 SCHWABE, WILLIAMSON & WYATT, P.C.

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9 By: /s/ Stephanie P. Berntsen
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15 Dated: April 27, 2023

16 CHOLAKIAN & ASSOCIATES

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18 By: /s/ Philip Downs via telephonic approval
4.27.23
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